IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 655 OF 2005
IN
SUIT NO.3857 OF 1996

The Malayalam District Council of Maharashtra of the South India Assemblies of God. ..Plaintiff.

V/s.

Shirley Naresh Rajwani & Ors. ..Defendants.

Mr.Shailesh Shah i/b M.Munim & Co. for Plaintiff.

Mr.Milind Vasudeo i/b G.H.Shukla for Defendant Nos. 1 and 2.

CORAM: A.M.KHANWILKAR,J

DATE : SEPTEMBER 12, 2005.

P.C. :

1. Heard counsel for the parties. Perused the pleadings.

2. By this chamber summons, plaintiffs seek to amend plaint so as to pursue the claim in the suit on behalf of the South India Assembly of God as principal and the District Councils, the Western District Council of Maharashtra, as it is decided by a Resolution dated 12th January, 2002 of the General Body of the Malayalam District Council of Maharashtra.

3. In so far as this amendment is concerned, although it is argued on behalf of the plaintiffs that amendment is a formal amendment to the cause title of the plaint, I find substance in the argument of the defendant that if the relief sought is granted that would result in not only change in the frame of the suit but also amount to substitution of plaintiff in place of the original plaintiff. This is so because, plaint, as filed, is by the Malyalam District Council of Maharashtra of the South India Assembly of Gods, one of the District Council of the South India Assembly of Gods. From the averments in the plaint, it is seen that this plaintiff is member of South India Assembly of God which is the parent organisation. Both the organisations have their independent constitution and are governed by the separate constitution. In the plaint, it is nowhere mentioned that premises were occupied by the parent Body South India Assembly of Gods and that the Malayalam District Council of Maharashtra was in possession thereof as its agent. The present suit is filed under section 6 of the Specific Relief Act, which provision can be invoked only by the person who claimed to be in possession and has been wrongfully dispossessed. Case made out in the plaint is that Malayalam District Council of Maharashtra was in

occupation of premises. In other words, it would appear that District Council was in possession of the premises in its own right and carrying out all its activities.

4. Viewed in this perspective, there is substance in the objection taken by the defendants that if amendment is granted, it would result in substantive alteration in frame of the suit as well substitute the Plaintiff. Accordingly, prayer for such amendment will have to be rejected.

5. Counsel for the defendant however, fairly accepts that the latter amendment sought on behalf of the plaintiff can be granted, namely, which is founded on the basis of change of name of the District Council which now reads as "Western District Council of Maharashtra" formerly know as Malyalam District Council of Maharashtra(South India Assembly of Gods). To that extent, amendment is permitted.

6. Accordingly, chamber summons partly succeeds to the limited extent, that the plaintiffs are permitted to amend the cause title by describing the Malyalam District Council of Maharashtra as Western District Council of Maharashtra. Amendment to be

carried out within two weeks. No order as to costs.